

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RICKY VILLANUEVA,
Petitioner,

v.

COMMONWEALTH OF
PENNSYLVANIA, et al.,
Respondents.

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Civ. No. 14-6496

ORDER

On November 10, 2014, Petitioner Ricky Villanueva sought habeas relief, alleging that Respondents violated his constitutional and state law rights by deducting money from his bank account to pay court-ordered restitution. (Doc. No. 1); 28 U.S.C. § 2254. I referred his Petition to Magistrate Judge Wells, who recommended denying relief because Petitioner was not challenging lawfulness of his conviction or sentence. (Doc. Nos. 2, 4.)

No objections to the Report and Recommendation have been made. (Doc. No. 5). Accordingly, I must “satisfy [myself] that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b) Advisory Committee Notes; see also Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (the district court must “afford some level of review” when no objections have been made). Having reviewed the Report, I see no clear errors. See Leamer v. Fuaver, 288 F.3d 532, 542 (3d Cir. 2002) (a § 2254 claim is cognizable where petitioner challenges “the validity of the continued conviction or the fact or length of the sentence”). Moreover, I do not have jurisdiction to consider Petitioner’s claim (even if it were cognizable) because I have previously denied Petitioner habeas relief and he has not received permission from the Third Circuit to file a second or successive petition. (See Case No. 06-5564, Doc. No. 21 (denying § 2254 relief)); Coady v. Vaughn, 251 F.3d 480, 484 (3d Cir.

2001) (“[W]ith respect to habeas petitions filed by state prisoners pursuant to Section 2254, Congress has restricted the availability of second and successive petitions through Section 2244(b).”).

AND NOW, this 6th day of February, 2015, it is hereby **ORDERED**:

1. The Petition for a Writ of Habeas Corpus (Doc. No. 1) is **DENIED**;
2. The Magistrate Judge’s Report and Recommendation (Doc. No. 4) is **APPROVED AND ADOPTED**;
3. Because Defendant has not made a substantial showing of the denial of a constitutional right, there are no grounds on which to issue a certificate of appealability; and
4. The Clerk shall mark this case **CLOSED** for statistical purposes.

IT IS SO ORDERED.

/s/ Paul S. Diamond

Paul S. Diamond, J.